

HEALTH SERVICES BILL 2016

Receipt and First Reading

Bill received from the Assembly; and, on motion by **Hon Donna Faragher (Minister for Planning)**, read a first time.

Second Reading

HON DONNA FARAGHER (East Metropolitan — Minister for Planning) [3.17 pm]: I move —

That the bill be now read a second time.

The Health Services Bill 2016 is being introduced to reform the governance of the WA health system. This bill will replace the Hospitals and Health Services Act 1927 that was passed almost a century ago. Although the Hospitals and Health Services Act 1927 has been amended a number of times since then, all members would agree that it is not capable of providing the contemporary framework that is required to support the governance of the WA health system in the twenty-first century.

In December 2013, this government established the WA Health Transition and Reconfiguration Steering Committee to provide advice on reforms needed to better position the WA health system to deal with future challenges. The committee recommended, along with other reforms, the replacement of the Hospitals and Health Services Act 1927. Presently, the WA health system lacks clarity of roles and accountabilities. The current governance arrangement for the WA health system concentrates all authority and accountability in the office of the director general—either in the office holder’s own right as chief executive officer of the Department of Health or as delegate for the Minister for Health as the board of all Western Australian public hospitals and health services. Placing all accountability and authority in a single office for an essential yet complex system that now involves an annual operating budget of more than \$8 billion is not sustainable, and a change in governance is required. A central concept of the reform will be the department’s role as system manager. The new legislation will clarify the roles, responsibilities and accountabilities at each level of the system, and by devolving decision-making to the local level, the legislation will drive the continued delivery of high-quality health care. It will modernise the governance and delivery of the health system in WA, with the model being based on the successful elements of the Victorian, New South Wales and Queensland systems.

Part 1 of the bill provides that the provision of health services by the WA health system is based on the Medicare principles, thereby enshrining the right for eligible persons to be given a choice to receive public hospital services free of charge as public patients. The Western Australian government has a longstanding commitment to these principles, being that the state government provides health and emergency services throughout the public hospital system. When eligible persons are to be given the choice to receive health and emergency services of a kind or kinds that are currently or were historically provided by hospitals and access to such services by public patients free of charge, it is to be on the basis of clinical need and within a clinically appropriate period.

Part 2 of the bill sets out the powers of the minister and establishes the Minister for Health as a body corporate, known as the ministerial body, which will have perpetual succession and a common seal and corporate identity. The establishment of the ministerial body will assist the Minister for Health in performing functions that are more suitably performed by a body corporate than an individual.

Part 3 of the bill establishes the director general of the Department of Health as the system manager of the WA health system, purchasing health services from autonomous boards. The director general as the system manager will have powers and functions to set the parameters within which hospital and health services will be planned and delivered, to determine the clinical role and services of individual hospitals and to hold health services to account for the delivery of the government’s objectives and priorities. This will be achieved by empowering the director general to set system-wide policy frameworks on such things as the safety and quality of services delivered by health service providers and financial management, and, on rare occasions, issue directions to ensure system integration and coordination.

Part 4 of the bill provides for the establishment of new autonomous health service entities known as health service providers. Depending on the type of services delivered, health service providers will be governed by either a board or a chief executive. Health service providers will be responsible and accountable for hospital and health service delivery for their populations according to performance standards set out in service agreements with the director general of the Department of Health.

Part 5 of the bill outlines the requirements and detail for these service agreements between the system manager and the health service provider. Service agreements will specify, in addition to other matters, the volume of services to be provided by the health service provider and the funding that will be provided to deliver these services, and will clearly set out the performance standards for those services. Adherence to service agreements will be a critical accountability mechanism. Health service providers will be responsible and accountable for

managing hospital and health service delivery according to performance standards set out in service agreements with the director general of the Department of Health and will have a broader role in addressing population health needs. Service agreements will set out the system manager expectations for each health service provider and service-wide requirements.

Part 5 also provides for the Mental Health Commission to purchase mental health services from the Western Australian health system. This will be achieved through two levels of agreement: firstly, there will be a head agreement between the director general of the Department of Health and the Mental Health Commissioner; and, secondly, there may be service agreements between the Mental Health Commissioner and individual health service providers. All mental health service agreements must be consistent with the head agreement.

Part 6 of the bill establishes the mechanisms for the setting of fees and charges for the provision of health services. The fee setting provisions of the Hospitals and Health Services Act 1927 currently hamper the recovery of moneys in two ways: firstly, a lack of flexibility to establish fees that can be legitimately charged for due to the narrowness of provisions in the act that must be relied upon to gazette fees and charges; and, secondly, a lack of administrative nimbleness to be able to adjust certain fees and charges, the quanta of which are determined by reference to commonwealth regulations, which change as frequently as twice a year. Part 6 addresses these issues by authorising health service providers to impose fees and charges for the provision of health services subject to any scale of fees or charges fixed by order of the Minister for Health and any non-chargeable health services set out by the commonwealth in the National Health Reform Agreement or future agreement. In fixing a scale of fees and charges, the Minister for Health has the power to adopt by reference any scale of fees or charges fixed by the commonwealth. The provisions of this part also allow regulations to be made for the recovery of fees from individuals who have received a compensation payment in respect of an injury that was treated at a public hospital.

Part 7 of the bill provides for the accountability and financial management of health service providers. Boards of health service providers will be subject to the Financial Management Act 2006 and be accountable to the Minister for Health and the director general of Health in respect of the performance and financial management of health service providers.

Part 8 of the bill provides for the establishment of health service provider boards of governance. Subject to the passage of this legislation through Parliament, from 1 July 2016 these boards will be legally responsible and accountable for the oversight of hospital and health service delivery for their local communities. A key benefit of health service provider boards is expected to be the wealth of experience and expertise that chairs and members will bring to the management of health services. The individuals sought are people with high-calibre skills and experience in areas such as the provision of clinical or other health services, business and financial management, human resources, health education and training, and legal practice. The boards will assist in stimulating greater local innovation, responsiveness and service delivery performance. Of vital importance to this process has been the appointment of interim chairs from November 2015. These individuals have been serving in an advisory capacity, participating in a formal induction program and working closely with chief executives of health services boards, the director general and the Department of Health, and other key stakeholders, in a range of planning and implementation activities.

Part 9 of the bill outlines the employment arrangements for health service provider employees. Under the current employment arrangements, employees are unable to be transferred seamlessly between health services. The employment arrangements under the bill will resolve many of the present employment, transfer and disciplinary problems of the old act and bring the employment policies in line with the Public Sector Management Act 1994. In a similar vein, part 9 will also provide for the establishment of a health executive service similar to the senior executive service under the Public Sector Management Act 1994. It will comprise individuals appointed as chief executives of health service providers, along with individuals who have been appointed to health executive positions throughout the WA health system. Chief executives will be appointed and employed by the director general of the Department of Health. As the employing authority of chief executives in his or her own right, the director general of the Department of Health will be able to deploy chief executives across the WA health system in the same way that the Public Sector Commissioner is able, under section 50 of the Public Sector Management Act 1994, to recommend the transfer by the Governor of public service chief executives between departments. In relation to other health executives, the director general of the Department of Health will determine the positions within the WA health system that are executive positions. However, the board or chief executive of a health service provider will be the employing authority for the individual who fills the executive position.

Parts 10 and 11 of the bill set out the mechanisms for dealing with criminal and misconduct matters and substandard performance and discipline of employees. The provisions of the bill mirror the substandard performance and discipline provisions of part 5 of the Public Sector Management Act 1994, with some adaptations to suit the WA health system. The substandard performance and discipline provisions will create a more uniform approach to managing these issues in health service providers and will provide greater

transparency in the processes that will be undertaken. Part 12 of the bill provides for the adoption of part 6 of the Public Sector Management Act 1994 in relation to redeployment and redundancy of employees.

Part 13 of the bill sets out the powers of the director general of the Department of Health to investigate, inspect and audit health service providers. Part 14 of the bill empowers the director general of the Department of Health to conduct inquiries into the functions, management or operations of health service providers and authorises the director general to require persons to attend hearings, produce documents and answer questions.

Part 15 of the bill empowers the Minister for Health to make changes to existing health service providers and their assets, rights and liabilities. Under the current WA health system, the ownership of assets, rights and liabilities is not always clear. This is as a result of the merging and amalgamation of previous boards over the many years since the enactment of the old act. The purpose of part 15 is to ensure that there is clarity about the ownership of assets, rights, liabilities and contracts in relation to government property into the future. Under this part, the Minister for Health will have the power to abolish, amalgamate, merge or divide health service providers. In addition to this power, the Minister for Health will be able to transfer any interest in land, or any other asset, right or liability, between the state, the ministerial body and health service providers. This will ensure that the ownership of assets, rights and liabilities will remain clear in the future.

Part 16 of the bill provides for the regulation and control of conduct and traffic on health service provider land. This part will allow for the making of regulations to streamline the hospital by-laws that are currently enacted under the Hospitals and Health Services Act 1927 for this purpose.

Part 17 of the bill provides for the collection, use and disclosure of information within the WA public health system. Specifically, it provides for the director general to establish health information management systems for the collection and storage of all public health information on behalf of the state, and allows for health service providers and contracted health entities to access that information for the purpose of providing treatment and care to public patients. In addition, this part sets out the parameters for disclosure of information to third parties and imposes a statutory duty of confidentiality on all persons who obtain information under this bill.

Part 18 of the bill contains miscellaneous provisions.

Part 19 of the bill contains the transitional and savings provisions. In particular, part 19 provides for the abolishment of the boards of the Metropolitan Health Service and the WA Country Health Service. The Quadriplegic Centre board will continue to exist as though it had been established as a health service provider under this bill. To facilitate the transition to the new health service providers, all assets, rights, liabilities and contracts in the WA health system will, in the first instance, be vested in the ministerial body, and the Minister for Health will have the power to transfer any assets, rights, liabilities and contracts to health services in any manner that he or she sees fit.

Part 20 of the bill provides for the amendment of the Hospitals and Health Services Act 1927. The Hospitals and Health Services Act 1927 will no longer deal with the establishment, maintenance and management of public hospitals; instead, it will be used for the purpose of controlling and regulating private hospitals and private psychiatric hospitals, and the title of the act will be changed to the Private Hospitals and Health Services Act 1927.

Pursuant to standing order 126(1), I advise that this bill is not a uniform legislation bill. It does not ratify or give effect to an intergovernmental or multilateral agreement to which the government of the state is a party; nor does this bill, by reason of its subject matter, introduce a uniform scheme or uniform laws throughout the commonwealth.

This bill represents a significant step in the reform of the WA health system, which will ensure that the Western Australian community continues to receive excellent and sustainable health care.

I commend the bill to the house and table the explanatory memorandum.

[See paper 4079.]

Debate adjourned, pursuant to standing orders.